

UNITED STATES DISTRICT COURT

DISTRICT OF NEW MEXICO

Clerk's Minutes

Before the Honorable James O. Browning

Case No. CIV 16-318 JB/SCY Date: 6/26/18

Title: Rivero v. Board of Regents of the University of New Mexico

Courtroom Clerk: J. Gonzales Court Reporter: Jennifer Bean

Court in Session: 8:31 a.m. Court in Recess: 10:01 a.m.  
10:17 a.m. 11:24 a.m.

Type of Proceeding:

DEFENDANT UNIVERSITY OF NEW MEXICO BOARD OF REGENTS' MOTION AND  
MEMORANDUM FOR SUMMARY JUDGMENT [139];

DEFENDANT UNIVERSITY OF NEW MEXICO BOARD OF REGENTS' AMENDED MOTION  
AND MEMORANDUM FOR SUMMARY JUDGMENT [143];

MOTION FOR SUMMARY JUDGMENT AND MEMORANDUM OF LAW AS TO CERTAIN  
OF DEFENDANT BOARD OF REGENTS OF THE UNIVERSITY OF NEW MEXICO'S  
AFFIRMATIVE DEFENSES [144];

MOTION IN LIMINE TO EXCLUDE COMPLAINTS AGAINST  
PLAINTIFF PRIOR TO 2006 [145];

MOTION IN LIMINE TO PROHIBIT AND EXCLUDE USE OF THE TERM  
"PSYCHOLOGICAL" IN REFERENCE TO "PSYCHIATRIC" EVALUATIONS [146]

Total Court Time: 2 hr 37 minutes

Order Consistent with Court's Rulings to be Prepared By: Court

Attorney's Present for Plaintiff(s)

Eric Norvell

Attorney's Present for Defendant(s):

Lawrence Marcus

Proceedings:

8:31 a.m. Court in session. Counsel enter appearances.

Dr. Rivero at counsel table with Mr. Norvell.

Emma Rodriguez at the table with Mr. Marcus.

Mr. Marcus: Argues in support of motion for summary judgment.

Mr. Norvell: Argues in opposition to motion for summary judgment.

Court: Queries Mr. Marcus.

Mr. Marcus: Responds.

Court: Queries Mr. Norvell.

Mr. Norvell: Responds.

Mr. Marcus: Argues in support of plaintiff's claim for an improper medical examination being barred by the statute of limitations.

Mr. Norvell: Argues in opposition to statute of limitations.

Court: Queries Mr. Norvell.

Mr. Norvell: Responds.

Mr. Marcus: Argues in reply to statute of limitations – argues in support of psychological evaluation.

Court: Queries Mr. Marcus.

Mr. Marcus: Responds.

Mr. Norvell: Argues in opposition to psychological evaluation.

Court: Queries Mr. Norvell.

Mr. Norvell: Responds.

Mr. Marcus: Argues in reply of psychological evaluation – argues in support of constructive discharge.

Mr. Norvell: Argues in opposition to constructive discharge.

Mr. Marcus: Argues in reply in support of constructive discharge.

10:01 a.m. Court in recess.

10:17 a.m. Court in session.

Mr. Marcus: Continues reply in support of constructive discharge.

Mr. Norvell: Gives closing on motion for summary judgment.

Mr. Marcus: Gives closing on motion for summary judgment.

Court: Will revisit Judge Lynch's ruling – queries counsel re: status of case.

Mr. Norvell: Case is not set for trial – discovery has passed.

Court: **Sets 12/3/18 at 8:30 a.m. as trial date – PTC 11/20/18 at 8:30 a.m.** – ruling on summary judgment motions by September – moves to motion in limine.

Mr. Norvell: Argues in support of motion in limine to exclude complaints against plaintiff prior to 2006 [145].

Mr. Marcus: Argues in opposition of motion in limine.

Mr. Norvell: Argues in reply to motion of limine.

Court: At present time not inclined to keep complaints out.

Mr. Norvell: Argues in support of motion in limine to prohibit and exclude use of the term “psychological” in reference to “psychiatric” evaluations [146]

Mr. Marcus: Argues in opposition to motion in limine.

Mr. Norvell: Argues in reply to motion in limine.

Court: Gives inclination about using word psychiatric.

Mr. Norvell: Argues in support of motion for summary judgment.

Court: Queries counsel about using facts from both motions for summary judgment for opinion.

Counsel have no objection.

Mr. Marcus: Argues in opposition to motion for summary judgment.

Mr. Norvell: Argues in reply in support of summary judgment.

Court: Gives inclinations – anything further?

Counsel indicate nothing further.

Mr. Norvell: Represents that there is a retaliation claim active.

Mr. Marcus: Responds.

11:24 a.m. Court in recess.